

AN ETHICAL ANALYSIS OF THE HARM REDUCTION APPROACH TO PROSTITUTION

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Abstract

Prostitution has been found to be a major factor in the global spread of HIV/AIDS, especially in Africa and Asia. Over the past several years, millions of dollars have been funneled into programs that seek to limit the spread of HIV/AIDS by providing condoms to prostitutes and increase their utilization through education and the 'empowerment' of prostitutes. Those following this approach, termed a 'harm reduction' approach to prostitution, continue to demand more funding for future programs in spite of the lack of an ethical basis for this philosophy. Alternatively, efforts to fight prostitution by others have been geared toward the elimination of prostitution in what could be termed a 'rescue and restore' approach to prostitution. Since prostitution is inherently a harmful activity, to seek reduction of harm rather than its elimination creates an ethical dilemma. An ethical analysis of the harm reduction philosophy as opposed to the rescue and restore philosophy will be performed using an accepted ethical framework for public health issues.

Introduction

In 2003, Congress enacted the "United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003".¹ This legislation authorized funding in the amount of fifteen billion dollars to fight the global spread of HIV/AIDS through what has become known as the PEPFAR funds (President's Emergency Plan For AIDS Relief). Unfortunately, this legislation has ignited a political firestorm in Washington over the issue of how funding may be allocated when groups are targeting prostitution in their anti-AIDS efforts. The Act specifically states, "No funds made available to carry out this

Act, or any amendment made by this Act, may be used to provide assistance to any group or organization that does not have a policy explicitly opposing prostitution and sex trafficking."² The Bush Administration has come under attack for its enforcement of this provision, which espouses what will be labeled the 'rescue and restore' approach to prostitution. The rescue and restore approach seeks to remove men and women from prostitution and restore them to a lifestyle that is productive within society. An alternative view, known as the 'harm reduction' approach, believes that efforts to eradicate prostitution, while ideologically commendable, are often unrealized, and instead chooses to focus time and energy on reducing the various harms that are prevalent within prostitution. This attack was renewed recently when President Bush announced that he was asking Congress to approve an additional fifteen billion dollars to be

spent fighting AIDS after the current funding expires in 2008.³ The controversy centers on the fact that harm reduction techniques, such as the provision of condoms to prostitutes, often allow for the continuation of prostitution and its other related harms whereas a rescue and restore approach seeks to abolish prostitution and all its attendant harms. Strategies for reduction of harm in prostitution have been described.⁴ Unfortunately, very little has been written on the ethical basis for promoting a harm reduction approach to prostitution, as opposed to a rescue and restore approach.

History of Harm Reduction

Harm reduction as a philosophy was developed in an effort to deal with the issue of illicit IV drug use and its association with the spread of HIV/AIDS. However, even within the drug abuse arena, there has been controversy as to whether the definition of harm reduction should encompass programs that were oriented toward abstinence. Narrow definitions of harm reduction excluded abstinence-oriented programs, while broader definitions were comfortable including them.⁵ Lenton and Single chose to include abstinence-oriented strategies within their definition of harm reduction which had three necessary conditions: “1) the primary goal is the reduction of drug related harm rather than drug use *per se*; 2) where abstinence-oriented strategies are included, strategies are also included to reduce the harm for those who continue to use drugs; and 3) strategies are included which aim to demonstrate that, on the balance of probabilities, it is likely to result in a net reduction in drug-related harm.”⁶ The most common harm reduction strategy within illicit IV drug use is the provision of sterile needles and syringes to IV drug users for the purpose of reducing needle sharing.

This harm reduction approach was later adapted as a framework for dealing with the issue of prostitution and its involvement in the spread of HIV/AIDS. Within the field of prostitution, the task of harm reduction has been defined as follows: “To reduce existing vulnerability amongst sex work entrants; and to ensure that sex work does not introduce further vulnerability.”⁷ While harm reductionists in prostitution refuse to reject the ideal of the abolition of prostitution as an end point, in practicality, it is usually ignored. As this purpose statement clearly shows, the possibility of someone within prostitution continuing in that activity under a harm reduction program is not only possible, but actually expected.

Examining the ethical foundation for harm reduction in illicit IV drug use, Fry et al. pointed out that harm reduction in illicit drug use has been operating without an explicit moral framework and that the lack of development of ethical underpinnings for harm reduction has been to its detriment.⁸ They point out that at a *macro-ethics* level, there are many questions regarding harm reduction within illicit drug use that remain unanswered and suggest an ‘ethics engagement’ through further dialogue on harm reduction ethics. This lack of a good ethical foundation within the harm reduction philosophy is also related to the fact that within public health in general, the discipline of ethics has been slow to develop.^{9,10}

As might be expected, as harm reduction has transitioned from illicit IV drug use into prostitution, the poor development of ethical underpinnings that has characterized harm reduction continues in the realm of prostitution. A recent PubMed search entering the key words of 'harm reduction', 'prostitution', and 'ethics' yielded absolutely no results. In her commentary on the transition of harm reduction from drug use to prostitution, Cusick concludes that prostitution is a suitable arena for development of the harm reduction agenda, but fails to discuss any ethical justification for harm reduction in prostitution as opposed to the rescue and restore approach.¹¹ Cusick promotes a harm reduction approach to prostitution because she concludes that the harms associated with prostitution are related to vulnerability and are not inherent to the activity itself. Therefore, if vulnerability can be eliminated, it might be possible to completely remove all harm from prostitution. This overly simplistic approach incorrectly minimizes the harms that result to the self-esteem of every person involved in prostitution and wrongly assumes that vulnerability to sexually transmitted infections can be completely eliminated through condoms.

Ethics in Public Health

As new ideas and approaches are introduced into the field of public health, it is important that they be evaluated scientifically with all available empiric data. But the evaluation must not be limited to scientific evidence alone. It is critical that any new approach such as harm reduction be examined on an ethical basis as well. A framework for ethical analysis in public health has been suggested by Roberts and Reich¹² and will be used to analyze the harm reduction approach to prostitution as opposed to the only known alternative at this time, the rescue and restore approach to prostitution where it is legally prohibited. This suggested analytic framework includes the three philosophies of utilitarianism, liberalism, and communitarianism.

Utilitarianism

Utilitarianism evaluates a planned action on the basis of the consequences of that action. The action that promotes the greatest good for the most people is generally seen as ethically justified within the philosophy of utilitarianism. Though variations of utilitarianism exist, and there are controversies surrounding the issue of how to define 'good', it remains a useful philosophy to evaluate the two different approaches to prostitution.

The harms of prostitution have been reviewed,¹³ revealing among other things that prostitution has an increased mortality rate,¹⁴ with one report showing a 1% chance of being murdered while working as a prostitute.¹⁵ Other reported harms of prostitution include violence,¹⁶ increased sexually transmitted infections,¹⁷ significant emotional disturbances,¹⁸ and concomitant drug use.¹⁹ Prostitution therefore must be viewed as a very dangerous activity for the vast majority of those who engage in it.

Approaching the issue of prostitution from a harm reduction perspective differs from the rescue and restore approach mainly by undertaking small interventions that reduce harm rather than seeking to remove all harm

in prostitution through its elimination. Utilitarianism would see both the reduction of harm and the elimination of harm as good, but could only justify harm reduction above elimination if the total good achieved in harm reduction was greater than the good achieved by the same amount of effort in a rescue and restore approach. In other words, the good achieved if one million dollars were spent to distribute condoms to prostitutes in the harm reduction approach would have to be greater than the good achieved if the same amount of money was spent to remove prostitutes out of prostitution. A recent evaluation of a harm reduction program in India focusing on prostitutes found that the intervention would only prevent 22-35% of new HIV infections among prostitutes if performed in a low transmission setting, and if the same intervention was performed in a high transmission setting, it prevented only 11-17% of all new HIV infections.²⁰ Therefore, harm reduction quantitatively reduces harm in the form of HIV spread in only a minority of those directly involved in the intervention. In addition, while reducing HIV spread is certainly viewed as a good, condoms would do nothing to eliminate the potential for violence and other harms associated with prostitution. It is in fact very possible for a prostitute to successfully negotiate condom use only to find the client being very abusive and inflicting significant physical harm during the course of the sexual encounter. In this case, one harm would be lessened, but the total harm incurred by that prostitute would not necessarily be significantly altered.

There are other harm reduction strategies that attempt to address the issue of violence in prostitution, such as education and empowerment, but none of these strategies is capable of completely removing the possibility of violence. By its very nature, prostitution will always have some risk since it involves two people with one person in a position of some vulnerability. In addition, education and empowerment may have an effect in reducing violence for a period of time, but these effects are often temporary and will require repeating since within the harm reduction paradigm, the person continues in the activity that exposes them to potential harm.

In the rescue and restore approach, one million dollars spent exclusively on removing men and women from prostitution will have a clear and definite good measured in the number of individuals successfully removed from prostitution. The potential harm for these individuals will not be reduced by just 35%, but will be totally eliminated. In addition, the harm will be eliminated, not only from a particular sexual encounter, but also from that point forward because the person is no longer working in prostitution. With the rescue and restore approach, therefore, there is a clearly defined consequence that is seen as good, the complete removal of all harm from prostitution for that individual. The quality of that good is strengthened by the fact that it is permanent rather than temporary. Through the lens of utilitarianism, then, because the good achieved through rescue and restore appears more complete and permanent than that achieved through harm reduction, rescue and restore appears to be the ethically superior approach to prostitution. Therefore, the onus is on harm reductionists to show the good achieved through their approach is greater than that achieved through the rescue and restore approach.

Liberalism

The second philosophical view in the framework of Roberts and Reich is liberalism. Here liberalism means to respect and maximize the rights of the individual and not use people as a means to another's ends, along the lines of the teaching of Immanuel Kant. A particular action or program is seen as ethically justified if it adequately respects the individual and does not overtly impinge on their individual human rights.

Prostitution itself, by its very nature, severely impinges on individual human rights since the vast majority of prostitution is pimp controlled.²¹ As a result of being under the control of a pimp, the prostitute is often unable to negotiate condom use or the type of sex act performed. This control also includes financial exploitation. In addition to the client (John) who is benefiting from the act of prostitution, a third party outside the client is gaining financially from the transaction. The prostitute is often forced to give all or most of their proceeds to the pimp. The amount of financial gain for the pimp is directly related to the degree of exploitation of the prostitute, which further compromises the rights of that prostitute. This exploitation and lack of individual rights within prostitution is shown by the fact that in one study 92% of prostitutes stated that they wanted to leave prostitution immediately.²² If over 90% of people working in a particular activity want to leave, the most ethical action would be to help them leave it, not simply reduce their harm within the activity. In fact, harm reduction may actually become unethical if as a result of reducing harm, the person being exploited is enabled to remain in an activity that is inherently unequal rather than being forced out completely as a result of the harms incurred.

In order for harm reduction to be ethically viable within the framework of liberalism, it must insure that all the rights of the prostitute are protected within their program. Since their program includes continued activity within prostitution, all the rights of individuals must be protected, not just those of confidentiality and autonomy. It is not enough to distribute condoms and educate prostitutes while maintaining confidentiality, and yet allow them to return to a highly exploitative environment. Liberalism by definition means an environment as free of exploitation as possible. Therefore, ethically harm reductionists should be working to remove all forms of exploitation found in prostitution, such as pimp control. Not only should efforts be geared toward removing exploitation, but safeguards would need to be established that effectively guarantee the ongoing rights of the prostitutes. Finally, it should be understood that removing all forms of exploitation within prostitution does not remove all harm since, for instance, the threat of sexually transmitted infection still remains.

The rescue and restore approach to prostitution would end all forms of exploitation because it is removing the person from prostitution. Since the removal would be permanent, there would be no need for additional resources to be devoted for the ongoing enforcement of human rights. In addition, with the rescue and restore approach, once again, all harms are removed, not just

those associated with exploitation. Until the harm reductionists have shown their ability to remove all forms of exploitation from within prostitution, the rescue and restore of individuals from prostitution appears to be ethically superior to harm reduction within the philosophy of liberalism.

Communitarianism

The third philosophy within the ethical framework of Roberts and Reich is communitarianism. Communitarianism draws from the teachings of Plato and Aristotle and seeks to promote activities that create a good society. What is good may be defined by the individual community or may be based upon universally agreed criteria, but in either case, good would be viewed as what is positive for the community. While prostitution may provide a means of income for those involved, it is rarely seen as a positive for the community at large. Even in locations where prostitution has been legalized such as in Amsterdam, there are resulting community problems, such as an associated increase in organized crime that has accompanied prostitution.²³ In addition, the negative effects of prostitution upon community businesses have been chronicled.²⁴ Another negative effect of prostitution upon the community is the spread of sexually transmitted infections to innocent parties within the community, such as the wives of the men who visit prostitutes. Harm reductionists assume that the spread of sexually transmitted infections can be minimized through a combination of condom use and regular STI testing of the prostitutes. This approach minimizes the fact that while condoms reduce the spread of sexually transmitted infections, they do not completely eliminate them. An NIH workshop on condom effectiveness concluded that there was insufficient evidence regarding the condom's ability to prevent the spread of chlamydia, gonorrhea in women, trichomonas, herpes, syphilis and chancroid.²⁵ The ability of the condom to prevent the spread of HIV/AIDS was estimated at 80% within the Cochrane database.²⁶ Finally, a regular HIV testing program within the adult film industry has already been reported as unsuccessful in the prevention of the spread of HIV/AIDS.²⁷ Therefore, all available evidence seems to point to the fact that regarding communitarianism, the most ethical action regarding prostitution when it comes to the community at large is rescue and restore, rather than a harm reduction approach that allows the activity of prostitution with its associated harms to continue.

Conclusion

In summary, though harm reduction as a philosophy has been used for a number of years within the field of illicit drug use, the ethical underpinnings of that philosophy are still being worked out. As harm reduction has transitioned from drug abuse to prostitution, very little attention has been given to the ethical basis for harm reduction in its application to the field of prostitution. When a proposed ethical framework for public health is applied to analyze the ethical basis of a harm reduction approach in prostitution compared to the rescue and restore approach to prostitution, the rescue and restore approach is found to be superior. Therefore, as funding is provided to groups interfacing

with prostitution in their efforts to fight the global spread of HIV/AIDS, the ethically superior approach of rescue and restore should be preferred until adequate ethical justification can be established for a harm reduction approach to prostitution.

Endnotes

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